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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,700	03/04/2002	Mikko Makipaa	4208-4076	2805

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EXAMINER

LASTRA, DANIEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,700

Applicant(s)

MAKIPAA, MIKKO

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. Claims 1-27 have been examined. Application 10/086,700 (METHOD AND SYSTEM FOR PROVIDING CONTENT ITEMS TO USERS) has a filing date 03/04/2002

Response to Amendment

2. In response to Non Final Rejection filed 03/31/2005, the Applicant filed an Amendment on 07/29/2005, which amended claims 1, 3, 9, 10, 11, 13, 14 and 19-26. Applicant's amendment overcame the Section 101 rejection.

Claim Objections

3. Claim 4 is marked "currently amended", however said claim was not amended. Proper correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (U.S. 6,023,686) in view of Liebowitz (US 5,812,545).

As per claims 1, 11 and 21, Brown teaches:

A method of providing a content item to a plurality of *user devices*, comprising:

defining a collective earning threshold (see column 8, lines 29-37);

receiving a total collective payment from the plurality of *user devices*, wherein the total collective payment includes a plurality of individual user payments that are each contributed by a respective one of the plurality of *user devices* (see column 8, lines 29-40; column 3, lines 62-67);

Brown fails to teach transmitting the content item at a premium quality level when the total collective payment is greater than or equal to the collective earning threshold and transmitting the content item at an impaired quality level when the total collective payment is less than the collective earning threshold. However, Liebowitz teaches a communication system that varies transmission rates prices based upon the quality of the transmission medium. Customers wanting to receive content at a higher quality level (i.e., receiving content using 16kpbs circuits) would have to pay more than receiving the same said content at a lower quality level (i.e., using 8 kbps circuits) (see Liebowitz column 19, lines 13-40; figure 10). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the Brown system would collect group biddings to purchase content items and if the group biddings are more or equal than the seller's collective earning threshold prices (i.e. Brown "minimum price or threshold value" see Brown column 8, lines 30-35; Liebowitz asking price for transmitting said content at premium quality level) the said content would be transmitted at the higher quality level (i.e., using 16 kbps circuits; "declares the bidding group having the largest total bid which exceeds the threshold value the winning group", said winning group is able to receive said property or content item; see Brown column 8,

lines 42-45). However, if the group biddings for receiving said content are less than the seller's collective earning threshold price (i.e., Liebowitz's asking price for transmitting said content at premium quality level), the said content would be transmitted at a lower quality level (i.e. using 8kbps circuits or not transmitted at all), as the users are not paying the premium quality price or simply the minimum price to receive said content. Brown would be motivated to vary the quality of a product transmitted to buyers based upon said buyers collective total bid amount payment in view that the quality of a delivered product would be directly proportional to the cost of said product, and if said buyers want to receive a higher quality product, said buyers would have to pay a higher collective fee. However, because said buyers are combining their resources by pooling their bids to purchase content, said pooling would allow said buyers to purchase a higher quality or more expensive content.

As per claims 2 and 12, Brown teaches:

The method of claim 1, wherein the step of defining a collective earning threshold comprises selecting a threshold value from a time-varying threshold function (see column 8, lines 18-29).

As per claims 3 and 13, Brown teaches:

The method of claim 1, further comprising the step of awarding a prize to one or more users according to a prize criterion (see column 8, lines 35-40).

As per claims 4 and 14, Brown teaches:

The method of claim 3, but does not expressly teach wherein the awarding step comprises awarding a prize to the user that has contributed the largest of the individual

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user payments. However, Official notice is taken that it is old and well known in the auction art to award prizes to users that have won the largest bid. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Brown would award prizes to the largest contributor of a total collective payment bid, specially when Brown keep track of the amount each bidder contribute to the group bidding (see Brown column 8, lines 42-60). Users would not participate in the Brown's bid pooling system, if one user would finish contributing for almost all the total collective payment unless that user is awarded with a prize that would compensate for what others users did not contribute.

As per claims 5 and 15, Brown teaches:

The method of claim 1, but does not expressly teach wherein the step of transmitting the content item at a downgraded quality comprises reducing the resolution of images included in the content item. However, the same rejection applied to claim 1 is applied to claim 5.

As per claims 6 and 16, Brown teaches:

The method of claim 1, but fails to teach wherein the step of transmitting the content item at an impaired quality comprises reducing the size of one or more images included in the content item. However, the same rejection applied to claim 1 is applied to claim 6.

As per claims 7 and 17, Brown teaches:

The method of claim 1, but fails to teach wherein the step of transmitting the content item at an impaired quality comprises increasing the distortion of audio signals

included in the content item. However, the same rejection applied to claim 1 is applied to claim 7.

As per claims 8 and 18, Brown teaches:

The method of claim 1, but does not expressly teach wherein the step of transmitting the content item at an impaired quality comprises interrupting transmission of the content item. However, the same rejection applied to claim 1 is applied to claim 8.

As per claims 9 and 19, Brown teaches:

The method of claim 1, but fails to teach further comprising the step of transmitting a request for additional individual user payments to the plurality of *user devices* when the total collective payment is less than the collective earning threshold. However, Official notice is taken that it is old and well known in the business art that when a group of people get together to purchase an item at a target price, the group would know in real time how much money have been contributed and how much money is still needed to arrive at the target price. For example, if a group of people wants to purchase a \$100,000 item and after some contribution from each individual member of the group, they are still \$10,000 short, someone would send a message to the group to let them know so they can meet the target price. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that if the group total collective payment is less than the price of an item (i.e., collective earning threshold), Brown would let the group know in real time (see Brown column 3, lines 50-55; "total bid amount is displayed to the bidders on the remote computer and updated in real time") so they can adjust their individual contributions and meet the target price.

As per claims 10 and 20, Brown teaches:

The method of claim 1, but does not expressly teach further comprising the step of transmitting a request for additional individual user payments to the plurality of *user devices* when the total collective payment is within a predetermined range of the collective earning threshold. However, the same rejection applied to claim 9 is applied to claim 10.

Claims 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (U.S. 6,023,686).

As per claims 22, 24, 25 and 26 Brown teaches:

A method of providing a content item to a plurality of users, comprising:

defining a collective earning threshold;

receiving a total collective payment from the plurality of users, wherein the total collective payment includes a plurality of individual user payments that are each contributed by a respective one of the plurality of users (see column 3, lines 40-55); and

scheduling the content item for transmission (i.e. deliver purchase item) when the total collective payment is greater than or equal to the collective earning threshold (see column 8, lines 30-40). Brown does not expressly mentions the term "transmission".

However, Brown teaches in column 9, lines 1-6 that his invention is effective for accumulating a collective bid for any type of property. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the Brown system would be used for the collective bidding of electronic property such as multimedia broadcast, audio recording, movies, television programs, etc where a group

of buyers would collectively bid for electronic content, such as the transmission of electronic data (i.e. files, movies, digital data) as said electronic property would have a minimum cost (i.e. threshold value) which a seller of said electronic property would be willing to sell (i.e. transmit) said electronic property to said buyers.

As per claim 23, Brown teaches:

The method of claim 22, but does not expressly teach further comprising the step of identifying a stale payment when the total collective payment is less than the collective earning threshold and providing a content item reselection opportunity to the user that placed the stale payment. However, Official notice is taken that it is old and well known in the auction art that users that do not win the auction, lose the auction item but do not lose their money. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Brown would give users the option of reselecting another item to bid if the bid amount (i.e. total collective payment) is less than the seller's minimum threshold value (i.e. collecting earning threshold) (see Brown column 8, lines 30-40). Nobody would participate in the Brown's system if a user that does not win an auction, has the possibility of not only losing the auction item but also his bidding money.

As per claim 27, Brown teaches:

A wireless communications device for receiving a content item from a content provider, the wireless communications device comprising:

means for selecting a content item from a list of content item offerings provided by the content provider (see column 2, lines 5-16; column 7, lines 1-5);

means for sending an individual user payment for the selected content item to the content provider (see column 8, lines 50-60);

means for receiving a revenue indicator from the content provider, the revenue indicator indicating a comparison between a total collective payment and a collective earning threshold (see column 3, lines 45-55; column 8, lines 30-40), wherein the total collective payment includes the individual user payment and one or more payments (see column 3, lines 45-55); and

means for receiving the selected content item from the content provider in a manner that is determined by the comparison between the total collective payment and the collective earning threshold (see column 8, lines 30-50). Brown fails to teach receiving payment from wireless communication devices. However, Official notice is taken that it is old and well known in the computer art to transmit information via a wireless network. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Brown would allow users to submit bids and communicate with his network system via a wireless connection, as this communication it is well known in the computer art.

Response to Arguments

5. Applicant's arguments filed 07/29/2005 have been fully considered but they are not persuasive. The Applicant argues that Brown does not appear to involve content delivery, but rather auction. The Examiner answers that Brown teaches "content delivery" because in Brown the content delivery is the property that is purchased using buyers' collective bid (i.e. total collective payment: see Brown column 3, lines 45-55;

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column 8, lines 30-40). Therefore, Brown teaches the delivery of content to buyers based on said buyers' total collective payment, similar to Applicant's claimed invention. Also, Brown teaches in column 9, lines 1-5 that his method is effective for accumulating a collective bid for any type of property. Therefore, It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the Brown system would be used for the collective bidding of electronic property such as multimedia broadcast, audio recording, movies, television programs, etc where a group of buyers would collectively bid for electronic content, such as the transmission of electronic data (i.e. files, movies, digital data) as said electronic content would have a minimum cost (i.e. threshold value) which a owner of said electronic content would be willing to sell (i.e. transmit) said electronic property to said buyers.

The Applicant argues that Liebowitz states that "two sets of rates for voice calls are provided based on the quality of calls such as calls using 8 or 16 kbps circuits" but such calls are not a content item delivered to a plurality of users and moreover, the these rates appear to be in the form of an individual contribution and not a total collective payment. The Examiner answers that the prior art Liebowitz was brought to teach the concept that a rate or price of transmission data is directly proportional to the quality of said transmission. The better the quality of said transmission the higher the price that a buyer would have to pay to receive said transmission. However, the Examiner is using the prior art Brown and not Liebowitz to teach the limitation of delivering content item to a plurality of users based upon said users' total collective payment.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **DANIEL LASTRA** whose telephone number is 571-272-6720. The examiner can normally be reached on 9:30-6:00.

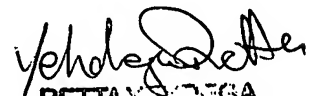
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **ERIC W. STAMBER** can be reached on 571-272-6724. The Examiner's Right fax number is 571-273-6720.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra

October 12, 2005


RETTA VEGA
PRIMARY EXAMINER